

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

HDH GROUP, INC.,)	
)	
Plaintiff,)	
)	Case No.: 2:24-cv-00988-WSS
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
<hr style="width: 40%; margin-left: 0;"/>)	
UNITED STATES OF AMERICA,)	
)	
Counterclaim Plaintiff,)	
)	
vs.)	
)	
HDH GROUP, INC.,)	
)	
Counterclaim Defendant.)	

CONCISE STATEMENT OF MATERIAL FACTS

Plaintiff, HDH Group, Inc. (“HDH”) by its undersigned counsel, in conjunction with its Motion for Summary Judgment filed this date and pursuant to Western District Local Civil Rule 56B.1., submits this Concise Statement of Material Facts in Support of Plaintiff’s Motion for Summary Judgment.

Plaintiff states that the following facts are undisputed and material:

1. On September 28, 2015, Defendant United States of America, through its agency, the Internal Revenue Service (the “IRS”), noticed Plaintiff of an audit (the “Audit”) of Plaintiff’s captive insurance program. Pl’s. Comp. ECF No. 1, ¶ 29; Def.’s Answer and Countercl. ECF No. 16, ¶ 29.

2. The Audit ended on November 13, 2023. Pl's. Comp. ECF No. 1, ¶ 24; Def Answer and Countercl. ECF No. 16, ¶ 24.

3. At the conclusion of the audit, the IRS determined that Plaintiff's involvement with its captive insurance program is that of a tax shelter promoter which engaged in tax shelter transactions. Pl's. Comp. ECF No. 1, ¶ 29; Def.'s Answer and Countercl. ECF No. 16, ¶ 29.

4. By six separate letters dated November 13, 2023, the IRS asserted penalties under 26. U.S.C. § 6700 against Plaintiff for tax years 2013-2018. Pl's. Comp. ECF No. 1, ¶¶ 14-20; Def.'s Answer and Countercl. ECF No. 16, ¶¶ 14-20.

5. Prior to the date the assessments were issued by the IRS, Plaintiff was not given the right to a trial by jury. Affidavit of Robert Evan Muffly, ¶ 6.

6. Before it had the opportunity to obtain a jury trial, Plaintiff paid the IRS at least 15% of the total assessed fraud penalties. Pl's. Comp. ECF No. 1, ¶ 22; Def.'s Answer and Countercl. ECF No. 16, ¶ 22.

7. Plaintiff subsequently filed claims for refund for each of the fraud penalties it paid corresponding to tax years 2013-2018. Pl's. Comp. ECF No. 1, ¶ 23; Def.'s Answer and Countercl. ECF No. 16, ¶ 23.

8. The IRS disallowed all of Plaintiff's aforementioned claims for refund by letter dated June 10, 2024. Pl's. Comp. ECF No. 1, ¶ 24; Def.'s Answer and Countercl. ECF No. 16, ¶ 24.

9. On April 22, 2024, the IRS issued notices of levy to collect the entire balance of the penalties assessed against Plaintiff. Affidavit of Robert Evan Muffly, ¶ 4.

10. On May 16, 2024, HDH Group, Inc. filed an appeal from the notices of levy. Affidavit of Robert Evan Muffly, ¶ 5.

Respectfully Submitted,

/s/ Ralph Minto, Jr.

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